Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Davis	Analyst:	Darrine Distefano	Bill Number:	AB 2097
Related Bills:	See Legislative History	Telephone:	845-6458	Introduced Date:	02-22-2000
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Household and Dependent Care Services Necessary for Gainful Employment Credit

SUMMARY

This bill would allow individuals a credit based on qualifying child or dependent care expenses paid in order to be gainfully employed or to seek employment. The credit would equal 100% of the current federal credit.

EFFECTIVE DATE

This bill would be effective immediately upon enactment and apply to taxable years beginning on or after January 1, 2000.

LEGISLATIVE HISTORY

AB 149 (99/00, failed to pass out of the Assembly by January 31 of the second year) would have allowed taxpayers with an adjusted gross income (AGI) of $100,000, or less, a refundable employment-related child and dependent care credit equal to a specified percentage of the federal credit.

AB 1728 (97/98, failed to pass out of the Assembly by January 31 of the second year) was identical to AB 149, except the credit was not refundable.

PROGRAM HISTORY

California had a similar employment-related dependent and child care credit that sunset for taxable years beginning on or after January 1, 1993. The prior law allowed a percentage of the federal credit based on the taxpayer's AGI.

SPECIFIC FINDINGS

Federal law allows a credit for a portion of qualifying child or dependent care expenses that are paid by a taxpayer in order to be gainfully employed or to seek employment. For taxpayers with an AGI of $10,000 or less, the credit is equal to 30% of a defined amount of employment-related expenses. The percentage is reduced, but not below 20%, for taxpayers with higher incomes. If expenses are incurred during any year for one qualifying individual (child or dependent), the maximum annual amount of employment-related expenses to which the credit may be applied is $2,400. For two or more qualifying individuals, the maximum amount of eligible expenses is $4,800. The $2,400 or $4,800 amount is reduced by the aggregate amount excluded from gross income that is paid or incurred by the employer under a dependent care assistance program. The maximum amount of credit a taxpayer may claim is $1,440.

Board Position:			Department Director	Date
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State law provides no comparable credit; however, credits are available for employers that pay certain child care related expenses.

This bill would allow a credit in an amount equal to 100% of the federal credit for employment-related child or dependent care expenses. The credit amount would range from 30% to 20% of qualifying expenses, based on the taxpayer’s federal AGI. Therefore, the maximum amount of credit a taxpayer would be able to claim is $1,440.

In the case where the credit allowed exceeds the amount of tax, the credit could be carried forward until exhausted.

Since **this bill** does not specify otherwise, the general rules under state income tax law regarding the division of credits between taxpayers who share in the costs would apply.

Policy Considerations

This bill provides a state credit in an amount equal to a federal credit for employment-related expenses. In general, a taxpayer’s federal income tax liability is significantly higher than the same taxpayer's state income tax liability. As a result, a state tax credit equal in amount to a federal credit could be considered to provide a greater proportionate benefit for state tax purposes than the federal credit in an equal amount for federal tax purposes.

This bill does not specify a repeal date. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. Moreover, this bill provides an unlimited carryover of unused credit amounts. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

Implementation Considerations

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the department’s normal annual update.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department’s costs.

Tax Revenue Estimate

Revenue losses under the Personal Income Tax Law (PITL) are estimated to be:

Fiscal Year Cash Flow Taxable Years Beginning After December 31, 1999 Enactment Assumed After June 30, 2000 $ Millions		
2000-01	2001-02	2002-03
-$223	-$222	-$228

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Revenue losses under the PITL would depend on the number of taxpayers who would be eligible for the federal household and dependent care credit and the amount that could be applied against available state tax liabilities.

The above estimates were based on simulations using the department's personal income tax model. Special programming was done to reflect federal law. Based on this model, $400 million credits were generated, which approximately 50% were applied beginning in tax year 2000.

BOARD POSITION

Pending.